

January 3, 2002

Honorable Bob Holden  
Governor of Missouri  
Missouri State Capitol  
Rm. 216  
Jefferson City, MO 65101

RE: Clemency for James R. Johnson

Dear Governor Holden:

On January 9, 2002, the State of Missouri is scheduled to execute James R. Johnson for the murders of Deputy Leslie Roark, Pam Jones, Sheriff Charles Smith and Deputy Sandra Miller in 1991.

We, the undersigned civic and religious leaders, request that clemency be granted to Mr. Johnson and that his execution not be carried out by the State. We further request that the Governor inform us when this letter is referred to the Board of Probation and Parole pursuant to Section 217.800, RSMo, in order that evidence of relevant facts and circumstances can be presented to the Board in conducting its investigation required by law.

While Mr. Johnson has never denied the senseless killing of four people from his community, there are troubling aspects of his conviction and sentencing that indicate that justice has not been done in this case.

After a two-week trial in February of 1993, a jury convicted Mr. Johnson of four counts of first degree murder and sentenced him to death. The Missouri Supreme Court, in a four to one vote, affirmed the convictions and death sentence. Judge Ronnie White, however, issued a vigorous dissent in which he opined that Mr. Johnson's right to effective assistance of counsel as defined by the United States Supreme Court in Strickland v. Washington, 466 U.S. 668 (1984), was violated when his defense lawyer, through no fault of Mr. Johnson's, presented false information in his opening statement at trial, which, when demonstrated by the prosecution to be false early in the trial, completely undermined the mental disease defense.

The most glaring of defense counsel's errors involved what is referred to as the "perimeter evidence". In investigating the killings at Mr. Johnson's home, police noted finding strings of tin cans and remnants of cooked food in their reports. Police also found Mr. Johnson's car with the tires slashed. While Mr. Johnson had no memory of doing these things, defense counsel assumed that Mr. Johnson had to have done them. Mr. Johnson's attorneys thought that the evidence was significant and provided it to the defense's mental health experts, who said that the evidence was consistent with Mr. Johnson having had a Vietnam flashback. Defense counsel placed the perimeter evidence in a position of prominence during his opening statement, in essence linking the entire defense to the existence of this evidence.

Unfortunately, the defense lawyer never investigated the evidence to know if his theory was true.

The prosecutor, however, did investigate and knew who was responsible for the perimeter evidence. Early in the State's case, the State called two highway patrol troopers who testified that they had strung the tin cans, slashed the tires and ate the food as part of their efforts to trap and capture Mr. Johnson.

As a result the prosecution was able to effectively destroy the credibility of Mr. Johnson's mental disease or defect defense before it was even presented. The defense counsel was never able to recover from this blunder.

Further evidence of the defense counsel's ineffective performance is shown in counsel's failure to present important evidence of mitigating circumstances and mitigating witnesses in the penalty phase. For example, defense counsel failed to present Mr. Johnson's life history, including Mr. Johnson's early abused childhood during which his mentally retarded mother placed his brother and him in the Missouri Baptist Children's Home. The boys were placed for adoption. The perspective parents at first took both brothers, but returned the younger, which was stressful for Mr. Johnson. Evidence exists that the adoptive mother often threatened to return Mr. Johnson to the Home if he was "bad". These experiences resulted in strong fears of abandonment in Mr. Johnson and a terror as a child of blonde women who resembled his natural mother.

Defense counsel also failed to provide evidence from mental health experts who examined Mr. Johnson after the shootings and could have testified to his attempted suicide in jail, his depression, and other profound emotional problems that were consistent with Post Traumatic Stress Disorder (PTSD) resulting from his Vietnam experience.

Clemency is in order because of the strong evidence that Mr. Johnson had been suffering from PTSD. PTSD is a recognized psychiatric disorder that can occur following the experience or witnessing of life-threatening events such as military combat, natural disasters, terrorist incidents or violent personal attacks. While in Vietnam Mr. Johnson saw intensive combat action including night patrols in which many of his fellow soldiers were killed or wounded. In the year before the killings Mr. Johnson exhibited numerous symptoms of PTSD such as nightmares associated with combat action. He also showed signs of avoidance such as depression and distancing himself from family and friends. A National Guard helicopter repairman, Mr. Johnson became highly anxious in 1990 when he feared his National Guard unit would be called into action in the Persian Gulf. On the night of the killings Mr. Johnson was dressed in camouflage fatigues and recounted that he saw enemy uniforms and fired like he was taught. The consensus opinion on the shooting spree among those who knew Mr. Johnson was that he had gone insane.

Another reason clemency is justified is because of Mr. Johnson's good character before and after the shootings. As a child Mr. Johnson loved animals, music and religion. Prior to the killings, Mr. Johnson had been a law-abiding, church going and well liked member of the community. He was known for his good deeds to help others. For example, in 1990 when a family friend lost everything in a fire, Johnson started a fund drive to help the family. On another occasion he helped a widow of friend killed in a helicopter crash put their estate in order and have a fair auction. In his years spent at Potosi Correctional Center, Johnson has worked as a chaplain's assistant. He leads the chapel music, helps set up services and programs and counsels fellow prisoners when they are unhappy.

Another important consideration in this case is the effect of the execution on the small, close-knit community of California, Missouri. The tragic killings in 1991 tore the community apart; and the execution will reopen old wounds. While some individuals of the community may see the execution as appropriate, others strongly feel that Mr. Johnson's actions were a result of his mental illness and not deserving of a death sentence. The execution will have a divisive effect on family members, friends and the community at large. A commutation of Mr. Johnson's sentence to life in prison without parole would prevent the community from suffering more from the traumatic murders.

Beyond the aspects of this case, as civic and religious leaders, we are concerned that the use of the death penalty promotes revenge as a principle of justice. As a society we need to search out the roots and reasons for our current attitudes for punishment of others. We should explore whether or not the negative power of vengeance has found a home in our society. It appears that the very violence that frightens us so much is making us proponents of violence.

We see the death penalty as the ultimate form of vengeance and retribution. A stay of all executions would allow us to find more effective ways to promote justice and accountability in our society. Considering this state has the current option of life without parole, there are other methods that could be employed that would promote "real justice" for victims and our society.

Finally, as people of faith, we believe that executions destroy human life, a gift of our Creator God. Executions debase humanity, preclude repentance and sanction violence as a solution. Violence only begets more violence. We believe it is in the interest of the common good of the people of our state that the cycle of violence be broken. The common good of the people of Missouri would be better served by the commutation of the death sentence.

For the above stated reasons, we request that you as Governor commute the death sentence of James R. Johnson to life without parole, or in the alternative a stay of execution should be granted and a board of inquiry to further investigate claims raised.

Respectfully submitted,

Lawrence A. Weber  
Executive Director and General Counsel  
Missouri Catholic Conference

***on behalf of:***

Most Rev. Justin Rigali  
Archbishop of the Catholic Archdiocese of St. Louis

Most Rev. Raymond Boland  
Bishop of the Catholic Diocese of Kansas City-St. Joseph

Most Rev. John R. Gaydos  
Bishop of the Catholic Diocese of Jefferson City

Most Rev. John Leibrecht  
Bishop of the Catholic Diocese of Springfield-Cape Girardeau

Most Rev. Joseph Naumann  
Auxiliary Bishop of the Catholic Archdiocese of St. Louis

Most Rev. Michael Sheridan  
Auxiliary Bishop of the Catholic Archdiocese of St. Louis

Most Rev. Timothy Dolan  
Auxiliary Bishop of the Catholic Archdiocese of St. Louis

Right Rev. Barry Howe  
Bishop of the Episcopal Diocese of West Missouri

Right Rev. Hays H. Rockwell  
Episcopal Diocese of Missouri

Bishop Ann Sherer  
Missouri Area United Methodist Church

Dr. John Williams  
Presbyterian Synods of Mid-America

Rev. Dr. Chuck Lee H. Maahs  
Bishop Central States Synod, Evangelical Lutheran Church in America

Amnesty International—USA Midwest Region

Joyce Armstrong  
Eastern Missouri ACLU, St. Louis

Benedictine Sisters  
Our Lady of Peace Community, Columbia, Missouri

Rep. Bill Boucher  
48<sup>th</sup> District, Kansas City

Dominican Sisters  
Sparkill, New York

Peter DeSimone  
Missouri Association for Social Welfare

Fellowship of Reconciliation  
Columbia, Missouri Chapter

Institute for Peace & Justice, St. Louis

Mary Phillips  
St. Louis Religious Society of Friends

Elder Roy Schaefer

Edna Silvestri  
Chair, Missouri CURE

Sisters of Mercy, Brooklyn and Cherish Life Circle

Women's International League for Peace and Freedom, St. Louis Branch